IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 335 OF 2004

Ashok Pandit & Anr. ..Petitioners.

Versus

Mohamed Ismail Khan & Ors. ..Respondents.

Mr. S.M. Shah for the Petitioners.

Mr. Anand Grover with S.A. Ali for the Respondents.

CORAM : S. A. BOBDE, J.

DATED : 16TH AUGUST, 2005.

P.C.:

1. Rule, returnable forthwith.

Learned counsel for the respondents waives service of rule for the respondents.

Heard by consent.

2. The petitioners are the office bearers of the Maharashtra Rifle Association, who have been fined by the courts below for not having complied with the order under Order 39, Rule 2(a) of the Code of Civil Procedure. Those proceedings have been termed as the

proceedings under contempt of court. There is no dispute of the fact that the injunction order was passed by the court below in terms of prayer clauses (a), (b) and (c) of the notice of motion No. 5627/1998. The said prayer clauses read as follows :-

Prayer clauses (a) :-

> "That pending the hearing and final disposal of the suit the defendants be directed by an order and injunction of this court to provide GSP Walther for use of the plaintiff in the Maharashtra Shooting Championship Schedule to be held on 16th/17th December, 1998 and National Shooting Championship scheduled to be held on 21st January, 1999 with ammunitions and paraphernalia as well as for pre-tournament practice;

Prayer clause (b) :-

> "That the defendants be directed by an order and injunction of this Hon'ble Court to accept the Entry Form of the plaintiff for his participation in the Maharashtra Shooting Championship scheduled to be held on 16.12.1998 and the National Shooting

Champanship scheduled to be held on 21.01.1999 in Free and Standard Pistol.

Prayer clause (c) :-

"That pending the hearing and final disposal of this suit, the defendants be directed by an order and injunction of this Hon'ble Court to issue the Letter of Participation in the Competitions to be held on 16th/17th December 1998 and 21st January 1999 to enable the plaintiff to obtain special leave on account of sports from his employer :

3. As a matter of fact the said order passed in the Notice of Motion No. 5627/1998 was not complied with as a result of which the trial court has ordered Rs.3000/- as compensation payable by the petitioners to the respondents instead of taking action for committing the petitioners to civil prison. Admittedly, the event is over and the compensation has been paid. The Question whether the petitioners have dis-obeyed the order of the court, is obviously a question of fact. No perversity or illegality is pointed out to take view that the order is vitiated. In this view of the matter, there is no merit in this petition. It is hereby dismissed.

DT.16.08.05 (S.A.BOBDE,J)

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